



**State of New Jersey**  
**DEPARTMENT OF BANKING AND INSURANCE**  
**DIVISION OF BANKING**  
**PO BOX 40**  
**TRENTON, NJ 08625-0040**

**JAMES E. MCGREEVEY**  
*Governor*

**HOLLY C. BAKKE**  
*Commissioner*

August 19, 2003

Mr. James E. Gilleran, Director  
Office of Thrift Supervision  
1700 G Street N.W.  
Washington, DC 20552

Dear Director Gilleran:

On behalf of Governor James E. McGreevey and the Department of Banking and Insurance ("DOBI"), I am writing to express our concerns over your recent letter, whereby the Office of Thrift Supervision ("OTS") indicated that the New Jersey Homeownership Security Act ("Act") would not apply to OTS chartered financial institutions.

The Act represents the McGreevey Administration's well-balanced approach to protecting unsuspecting New Jersey consumers from succumbing to the most abusive lending practices, usually resulting in the loss of their homes. We believe that unlike efforts in other jurisdictions, the approach taken in New Jersey is fair to lenders while providing adequate protection to consumers.

We are troubled by the tenor of your letter, which to us signals a desire to promote the OTS charter at the expense of protecting New Jersey consumers. It further contradicts recent discussions we have had with key OTS staff where we discussed ways in which DOBI and the OTS could work jointly to protect New Jersey consumers.

We believe that it is imperative for the OTS to take a more proactive role in protecting consumers in New Jersey – a role we believed OTS would embrace based on our many phone conversations. On or about June 9th, we began discussing how DOBI and the OTS could jointly protect New Jersey consumers against abusive lending practices. We discussed certain provisions of the Act, as well as the claims handling process utilized by both the OTS and DOBI, which included the jurisdictional reach and the enforcement capabilities of our

*Visit us on the Web at [www.njdoib.org](http://www.njdoib.org)*

*New Jersey is an Equal Opportunity Employer · Printed on Recycled Paper and Recyclable*

respective claims units. While our discussions were productive and encouraging, we were alarmed to hear that you have only one claims office to handle consumer complaints submitted by New Jersey consumers. We were even more alarmed to understand that this one office is responsible for investigating and resolving claims in 12 states in the northeast region. Claims from consumers in New Jersey are rising. For that reason, we cover the state with three offices, operating from Newark, Trenton, and Camden. Based on your team's description of the OTS claims office in Jersey City, we must question how your claims office could effectively protect New Jersey consumers. Since the OTS preemption letter allows federally chartered institutions to avoid compliance with the Act, it becomes clearer that your institutions will not be held to the same high standards that New Jersey chartered financial institutions are held to by this Administration.

While we disagree with your legal preemption conclusions, we disagree more with references to banks. The abusive lending debate will not be settled with statistics concerning banks. The real question concerns the operation of subsidiaries. In order to understand the impact that the OTS regulatory effort will have in the battle against abusive lending, we need to know the following based on your most recent annual (or year to date) data:

- How many subsidiaries of entities regulated by the OTS offer loans in New Jersey?
- How many of these subsidiaries offer mortgage loans?
- What is the volume of loans and the aggregate dollar volume for these subsidiaries?
- How many of these subsidiaries offer mortgage loans to subprime borrowers?
- What is the volume of loans and the aggregate dollar volume for these subsidiaries?
- How many claims have been filed against these subsidiaries?
- What dollar amount of fines/penalties have been imposed against these subsidiaries?
- What dollar amount of refunds have been returned to New Jersey consumers?

In my last contact with Debra Dakin on July 24th, I requested an opportunity to meet with the appropriate level of "senior" management in order to bring credibility to our discussions. I have heard no response. Nevertheless, we would like to meet with you to discuss these concerns before New Jersey consumers start facing greater abuses. Our Act is designed to help eliminate abusive lending. The dual lending tracks the OTS has created by preemption will allow too many lenders to operate without the constraints designed to protect our consumers. There is still time to change your direction. I will call you within a few days to arrange a mutually convenient time to meet.

Sincerely,

H. Robert Tillman  
Director

c: Governor James E. McGreevey  
Commissioner Holly C. Bakke  
Carolyn Buck, Chief Counsel (same address)  
Deborah Dakin, Deputy Chief Counsel (same)  
Robert Albanese, Regional Director

L:bargala:ltrots